

109TH CONGRESS
1ST SESSION

S. 727

To provide tax incentives to promote the conservation and production of natural gas.

IN THE SENATE OF THE UNITED STATES

APRIL 6, 2005

Mr. ALEXANDER (for himself and Mr. JOHNSON) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To provide tax incentives to promote the conservation and production of natural gas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tax Incentives for the
5 Natural Gas Price Reduction Act of 2005”.

6 **SEC. 2. ENCOURAGING COGENERATION DEVELOPMENT.**

7 (a) COMBINED HEAT AND POWER SYSTEM.—Section
8 48(a) of the Internal Revenue Code of 1986 is amended—

9 (1) in paragraph (3)(A)—

1 (A) in clause (i), by striking “or” at the
2 end;

3 (B) in clause (ii) by striking the comma at
4 the end and inserting “, or”; and

5 (C) by inserting after clause (ii) the fol-
6 lowing:

7 “(iii) combined heat and power system
8 property,”;

9 (2) by redesignating paragraph (4) as para-
10 graph (5); and

11 (3) by inserting after paragraph (3) the fol-
12 lowing new paragraph:

13 “(4) COMBINED HEAT AND POWER SYSTEM
14 PROPERTY.—For purposes of this subsection—

15 “(A) COMBINED HEAT AND POWER SYS-
16 TEM PROPERTY.—

17 “(i) IN GENERAL.—The term ‘com-
18 bined heat and power system property’
19 means property comprising a system—

20 “(I) which uses the same energy
21 source for the simultaneous or sequen-
22 tial generation of electrical power, me-
23 chanical shaft power, or both, in com-
24 bination with the generation of steam
25 or other forms of useful thermal en-

1 energy (including heating and cooling
2 applications),

3 “(II) which has an electrical ca-
4 pacity of no more than 50,000 kilo-
5 watts or a mechanical energy capacity
6 of more than 67,051 horsepower or an
7 equivalent combination of electrical
8 and mechanical energy capacities,

9 “(III) which produces at least 20
10 percent of its total useful energy in
11 the form of thermal energy, and at
12 least 15 percent of its total useful en-
13 ergy in the form of electrical or me-
14 chanical power (or combination there-
15 of),

16 “(IV) the energy efficiency per-
17 centage of which exceeds 60 percent,
18 and

19 “(V) which is placed in service
20 after December 31, 2005, and before
21 January 1, 2010.

22 “(ii) EXCLUSION.—The term ‘com-
23 bined heat and power system property’
24 does not include property used to transport

1 the energy source to the facility or to dis-
2 tribute energy produced by the facility.

3 “(B) SPECIAL RULES.—

4 “(i) NONAPPLICATION OF CERTAIN
5 RULES.—For purposes of determining if
6 the term ‘combined heat and power system
7 property’ includes technologies which gen-
8 erate electricity or mechanical power using
9 back-pressure steam turbines in place of
10 existing pressure-reducing valves or which
11 make use of waste heat from industrial
12 processes such as by using organic rankin,
13 stirling, or kalina heat engine systems,
14 subparagraph (A)(i) shall be applied with-
15 out regard to subclauses (III) and (IV).

16 “(ii) ENERGY EFFICIENCY PERCENT-
17 AGE.—For purposes of subparagraph
18 (A)(i)(IV), the energy efficiency percentage
19 of a system is the fraction—

20 “(I) the numerator of which is
21 the total useful electrical, thermal,
22 and mechanical power produced by
23 the system at normal operating rates,
24 and expected to be consumed in its
25 normal application, and

1 “(II) the denominator of which is
2 the higher heating value of the pri-
3 mary fuel source for the system.

4 “(iii) DETERMINATIONS MADE ON
5 BTU BASIS.—The energy efficiency per-
6 centage and the percentages under sub-
7 paragraph (A)(i)(III) shall be determined
8 on a Btu basis.

9 “(iv) EXCEPTION.—The matter in
10 paragraph (3) which follows subparagraph
11 (D) shall not apply to combined heat and
12 power system property.

13 “(C) SYSTEMS USING BAGASSE OR OTHER
14 BIOMASS.—If a system is designed to use ba-
15 gasse or other biomass (including wood chips,
16 wood waste, and bark) for at least 90 percent
17 of the energy source—

18 “(i) subparagraph (A)(i)(IV) shall not
19 apply, and

20 “(ii) the amount of credit determined
21 under subsection (a) with respect to such
22 system shall not exceed the amount which
23 bears the same ratio to such amount of
24 credit (determined without regard to this
25 subparagraph) as the energy efficiency per-

1 centage of such system bears to 60 per-
2 cent.”.

3 (b) CONFORMING AMENDMENTS.—Section
4 29(b)(3)(A)(i)(III) of such Code is amended by striking
5 “section 48(a)(4)(C)” and inserting “section
6 48(a)(5)(C)”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to periods after December 31,
9 2005, in taxable years ending after such date, under rules
10 similar to the rules of section 48(m) of the Internal Rev-
11 enue Code of 1986 (as in effect on the day before the date
12 of the enactment of the Revenue Reconciliation Act of
13 1990).

14 **SEC. 3. SOLAR ENERGY INCENTIVES.**

15 (a) BUSINESS CONSUMER CREDIT.—

16 (1) ENERGY PERCENTAGE.—Section 48(a)(2)
17 of the Internal Revenue Code of 1986 (relating to
18 energy percentage) is amended by striking subpara-
19 graph (A) and inserting the following:

20 “(A) IN GENERAL.—The energy percent-
21 age is—

22 “(i) for geothermal property, 10 per-
23 cent, and

24 “(ii) for solar equipment—

1 “(I) 30 percent during taxable
2 years ending after December 31,
3 2005, and before January 1, 2011,
4 and

5 “(II) 10 percent during taxable
6 years ending after December 31,
7 2010.

8 (2) ENERGY PROPERTY.—Section 48(a)(3)(A)
9 of such Code (defining energy property) is amended
10 by striking clause (i) and inserting the following:

11 “(i) equipment which uses solar en-
12 ergy to generate electricity for use in a
13 structure, to heat or cool (or provide hot
14 water for use in) a structure, to illuminate
15 the inside of a structure using fiber-optic
16 distributed sunlight or to provide solar
17 process heat, excepting property used to
18 generate energy for the purposes of heat-
19 ing a swimming pool,”.

20 (b) RESIDENTIAL CONSUMER CREDIT.—Subpart A
21 of part IV of subchapter A of chapter 1 of the Internal
22 Revenue Code of 1986 is amended by inserting after sec-
23 tion 25B the following:

1 **“SEC. 25C. RENEWABLE ENERGY EQUIPMENT CREDITS.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 3 dividual, there shall be allowed as a credit against the tax
 4 imposed by this chapter for the taxable year, in the case
 5 of qualified photovoltaic property expenditures or qualified
 6 solar heating property expenditures made by the taxpayer
 7 during such year, an amount equal to 30 percent of so
 8 much of such expenditures as do not exceed \$7,500.

9 “(b) DEFINITIONS.—For purposes of this section:

10 “(1) PROPERTY EXPENDITURE.—

11 “(A) IN GENERAL.—The term ‘property
 12 expenditure’ means any expenditure for a prop-
 13 erty.

14 “(B) INCLUSIONS.—

15 “(i) LABOR COSTS.—The term ‘prop-
 16 erty expenditure’ includes the cost of any
 17 labor that is properly allocable to the on-
 18 site preparation, assembly, or original in-
 19 stallation of the property described in
 20 paragraph (2) or (3), including the cost of
 21 piping or wiring to interconnect such prop-
 22 erty to the dwelling unit.

23 “(ii) SOLAR PANELS.—No expenditure
 24 relating to a solar panel or other property
 25 installed as a roof (or portion thereof)
 26 shall fail to be treated as a property ex-

1 penditure solely because it constitutes a
2 structural component of the structure on
3 which it is installed.

4 “(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-
5 PENDITURE.—The term ‘qualified photovoltaic prop-
6 erty expenditure’ means any property expenditure
7 for property which uses solar energy to generate
8 electricity for use in a dwelling unit through the
9 photovoltaic effect.

10 “(3) QUALIFIED SOLAR HEATING PROPERTY
11 EXPENDITURE.—

12 “(A) IN GENERAL.—The term ‘qualified
13 solar heating property expenditure’ means any
14 property expenditure for property which uses
15 solar energy to heat or cool (or provide hot
16 water for use in) a dwelling unit.

17 “(B) EXCLUSION.—The term ‘qualified
18 solar heating property expenditure’ does not in-
19 clude an expenditure for property which uses
20 solar energy to heat or cool a swimming pool.

21 “(c) SPECIAL RULES.—

22 “(1) JOINT OCCUPANCY.—In the case of any
23 dwelling unit which is jointly occupied and used dur-
24 ing any calendar year as a residence by 2 or more
25 individuals the following shall apply separately with

1 respect to qualified solar heating property expendi-
2 tures and qualified photovoltaic property expendi-
3 tures:

4 “(A) The amount of the credit allowable
5 under subsection (a) by reason of expenditures
6 made during such calendar year by any of such
7 individuals with respect to such dwelling unit
8 shall be determined by treating all of such indi-
9 viduals as 1 taxpayer whose taxable year is
10 such calendar year.

11 “(B) There shall be allowable with respect
12 to such expenditures to each of such individ-
13 uals, a credit under subsection (a) for the tax-
14 able year in which such calendar year ends in
15 an amount which bears the same ratio to the
16 amount determined under subparagraph (A) as
17 the amount of such expenditures made by such
18 individual during such calendar year bears to
19 the aggregate of such expenditures made by all
20 of such individuals during such calendar year.

21 “(2) TENANT-STOCKHOLDER IN COOPERATIVE
22 HOUSING CORPORATION.—In the case of an indi-
23 vidual who is a tenant-stockholder (as defined in sec-
24 tion 216) in a cooperative housing corporation (as
25 defined in that section), the individual shall be treat-

1 ed as having made such individual's tenant-stock-
2 holder's proportionate share (as defined in section
3 216(b)(3)) of any expenditures of such corporation.

4 “(3) CONDOMINIUMS.—

5 “(A) IN GENERAL.—In the case of an indi-
6 vidual who is a member of a condominium man-
7 agement association with respect to a condo-
8 minium which such individual owns, such indi-
9 vidual shall be treated as having made such in-
10 dividual's proportionate share of any expendi-
11 tures of such association.

12 “(B) MANAGEMENT ASSOCIATION.—For
13 purposes of this paragraph, the term ‘condo-
14 minium management association’ means an or-
15 ganization which meets the requirements of
16 paragraph (1) of section 528(c) (other than
17 subparagraph (E) thereof) with respect to a
18 condominium project substantially all of the
19 units of which are used as residences.

20 “(4) AMOUNT OF EXPENDITURE.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), an expenditure with respect
23 to an item shall be treated as made when the
24 original installation of the item is completed.

1 “(B) EXPENDITURES IN CONNECTION
2 WITH BUILDING CONSTRUCTION.—In the case
3 of an expenditure in connection with the con-
4 struction or reconstruction of a structure, such
5 expenditure shall be treated as made when the
6 original use of the constructed or reconstructed
7 structure by the taxpayer begins.

8 “(C) AMOUNT.—

9 “(i) IN GENERAL.—The amount of
10 any expenditure shall be the cost of the ex-
11 penditure.

12 “(ii) SUBSIDIZED ENERGY FINANC-
13 ING.—For purposes of determining the
14 amount of expenditures, there shall not be
15 taken into account expenditures which are
16 made from subsidized energy financing (as
17 defined in section 48(a)(5)(A)).

18 “(d) BASIS ADJUSTMENTS.—For purposes of this
19 subtitle, if a credit is allowed under this section for any
20 expenditure with respect to any property, the increase in
21 the basis of such property which would (but for this sub-
22 section) result from such expenditure shall be reduced by
23 the amount of the credit so allowed.

24 “(e) LIMITATIONS.—No credit shall be allowed under
25 this section for an item of property unless—

1 “(1) in the case of solar heating property, the
 2 property meets all applicable health and safety
 3 standards and requirements imposed by any State or
 4 local permitting authority, and

5 “(2) in the case of a photovoltaic property, the
 6 property meets all appropriate fire and electric code
 7 requirements.

8 “(f) TERMINATION.—This section shall not apply to
 9 expenditures made after December 31, 2010.”.

10 (c) PRODUCTION TAX CREDIT FOR UTILITY-SCALE
 11 SOLAR.—Paragraph (4) of section 45(d) of the Internal
 12 Revenue Code of 1986 (relating to qualified facilities) is
 13 amended to read as follows:

14 “(4) GEOTHERMAL OR SOLAR ENERGY FACIL-
 15 ITY.—In the case of a facility using geothermal or
 16 solar energy to produce electricity, the term ‘quali-
 17 fied facility’ means any facility owned by the tax-
 18 payer which is originally placed in service after De-
 19 cember 31, 2005, and before December 31, 2010.”.

20 (d) CONFORMING AMENDMENTS.—

21 (1) Subsection (a) of section 1016 of the Inter-
 22 nal Revenue Code of 1986 is amended—

23 (A) by striking “and” at the end of para-
 24 graph (30);

1 (B) by striking the period at the end of
2 paragraph (31) and inserting “, and”; and

3 (C) by adding at the end the following new
4 paragraph:

5 “(32) to the extent provided in section 25C(d),
6 in the case of amounts with respect to which a credit
7 has been allowed under section 25C.”.

8 (2) The table of sections for subpart A of part
9 IV of subchapter A of chapter 1 of such Code is
10 amended by inserting after the item relating to sec-
11 tion 25C the following new item:

“Sec. 25C. Renewable energy equipment credits.”.

12 (e) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to property placed in service after
14 December 31, 2005, in taxable years ending after such
15 date.

16 **SEC. 4. ENERGY EFFICIENCY TAX PROVISIONS.**

17 (a) CREDIT FOR RESIDENTIAL ENERGY EFFICIENT
18 PROPERTY.—

19 (1) IN GENERAL.—Subpart A of part IV of sub-
20 chapter A of chapter 1 of the Internal Revenue Code
21 of 1986 (relating to nonrefundable personal credits)
22 is amended by inserting after section 25B the fol-
23 lowing:

1 **“SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
3 dividual, there shall be allowed as a credit against the tax
4 imposed by this chapter for the taxable year an amount
5 equal to 20 percent of the qualified fuel cell property ex-
6 penditures made by the taxpayer during such year.

7 “(b) LIMITATIONS.—

8 “(1) MAXIMUM CREDIT.—

9 “(A) IN GENERAL.—The credit allowed
10 under subsection (a) shall not exceed \$500 for
11 each 0.5 kilowatt of capacity of property de-
12 scribed in subsection (c).

13 “(B) PRIOR EXPENDITURES BY TAXPAYER
14 ON SAME RESIDENCE TAKEN INTO ACCOUNT.—

15 In determining the amount of the credit allowed
16 to a taxpayer with respect to any dwelling unit
17 under this section, the dollar amount under
18 subparagraph (A)(i) with respect to each type
19 of property described in such subparagraph
20 shall be reduced by the credit allowed to the
21 taxpayer under this section with respect to such
22 property for all preceding taxable years with re-
23 spect to such dwelling unit.

24 “(2) PROPERTY STANDARDS.—No credit shall
25 be allowed under this section for an item of property
26 unless—

1 “(A) the original use of such property com-
2 mences with the taxpayer,

3 “(B) such property reasonably can be ex-
4 pected to remain in use for at least 5 years,

5 “(C) such property is installed on or in
6 connection with a dwelling unit located in the
7 United States and used as a residence by the
8 taxpayer, and

9 “(D) such property meets—

10 “(i) the performance and quality
11 standards (if any) which have been pre-
12 scribed by the Secretary by regulations
13 (after consultation with the Secretary of
14 Energy), and

15 “(ii) appropriate fire and electric code
16 requirements.

17 “(c) DEFINITIONS.—For purposes of this section—

18 “(1) QUALIFIED FUEL CELL PROPERTY EX-
19 PENDITURE.—The term ‘qualified fuel cell property
20 expenditure’ means an expenditure for any qualified
21 fuel cell property (as defined in section 48(c)(1)).

22 “(d) SPECIAL RULES.—For purposes of this sec-
23 tion—

24 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-
25 CUPANCY.—In the case of any dwelling unit which is

1 jointly occupied and used during any calendar year
2 as a residence by 2 or more individuals, the fol-
3 lowing rules shall apply:

4 “(A) The amount of the credit allowable
5 under subsection (a) by reason of expenditures
6 made during such calendar year by any of such
7 individuals with respect to such dwelling unit
8 shall be determined by treating all of such indi-
9 viduals as 1 taxpayer whose taxable year is
10 such calendar year.

11 “(B) There shall be allowable, with respect
12 to such expenditures to each of such individ-
13 uals, a credit under subsection (a) for the tax-
14 able year in which such calendar year ends in
15 an amount which bears the same ratio to the
16 amount determined under subparagraph (A) as
17 the amount of such expenditures made by such
18 individual during such calendar year bears to
19 the aggregate of such expenditures made by all
20 of such individuals during such calendar year.

21 “(2) TENANT-STOCKHOLDER IN COOPERATIVE
22 HOUSING CORPORATION.—In the case of an indi-
23 vidual who is a tenant-stockholder (as defined in sec-
24 tion 216) in a cooperative housing corporation (as
25 defined in such section), such individual shall be

1 treated as having made the individual's tenant-stock-
2 holder's proportionate share (as defined in section
3 216(b)(3)) of any expenditures of such corporation.

4 “(3) CONDOMINIUMS.—

5 “(A) IN GENERAL.—In the case of an indi-
6 vidual who is a member of a condominium man-
7 agement association with respect to a condo-
8 minium which the individual owns, such indi-
9 vidual shall be treated as having made the indi-
10 vidual's proportionate share of any expenditures
11 of such association.

12 “(B) CONDOMINIUM MANAGEMENT ASSO-
13 CIATION.—For purposes of this paragraph, the
14 term ‘condominium management association’
15 means an organization which meets the require-
16 ments of paragraph (1) of section 528(c) (other
17 than subparagraph (E) thereof) with respect to
18 a condominium project substantially all of the
19 units of which are used as residences.

20 “(4) ALLOCATION IN CERTAIN CASES.—Except
21 in the case of qualified wind energy property expend-
22 itures, if less than 80 percent of the use of an item
23 is for nonbusiness purposes, only that portion of the
24 expenditures for such item which is properly allo-

1 cable to use for nonbusiness purposes shall be taken
2 into account.

3 “(5) WHEN EXPENDITURE MADE; AMOUNT OF
4 EXPENDITURE.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), an expenditure with respect
7 to an item shall be treated as made when the
8 original installation of the item is completed.

9 “(B) EXPENDITURES PART OF BUILDING
10 CONSTRUCTION.—In the case of an expenditure
11 in connection with the construction or recon-
12 struction of a structure, such expenditure shall
13 be treated as made when the original use of the
14 constructed or reconstructed structure by the
15 taxpayer begins.

16 “(C) AMOUNT.—The amount of any ex-
17 penditure shall be the cost thereof.

18 “(6) PROPERTY FINANCED BY SUBSIDIZED EN-
19 ERGY FINANCING.—For purposes of determining the
20 amount of expenditures made by any individual with
21 respect to any dwelling unit, there shall not be taken
22 into account expenditures which are made from sub-
23 sidized energy financing (as defined in section
24 48(a)(5)(C)).

1 “(e) BASIS ADJUSTMENTS.—For purposes of this
2 subtitle, if a credit is allowed under this section for any
3 expenditure with respect to any property, the increase in
4 the basis of such property which would (but for this sub-
5 section) result from such expenditure shall be reduced by
6 the amount of the credit so allowed.

7 “(f) TERMINATION.—The credit allowed under this
8 section shall not apply to taxable years beginning after
9 December 31, 2006 (December 31, 2008, with respect to
10 qualified photovoltaic property expenditures).”.

11 (2) CONFORMING AMENDMENTS.—

12 (A) Section 1016(a) of the Internal Rev-
13 enue Code of 1986 is amended—

14 (i) by striking “and” at the end of
15 paragraph (30);

16 (ii) by striking the period at the end
17 of paragraph (31) and inserting “, and”;
18 and

19 (iii) by adding at the end the fol-
20 lowing:

21 “(32) to the extent provided in section 25C(e),
22 in the case of amounts with respect to which a credit
23 has been allowed under section 25C.”.

24 (B) The table of sections for subpart A of
25 part IV of subchapter A of chapter 1 of such

1 Code is amended by inserting after the item re-
 2 lating to section 25B the following:

“Sec. 25C. Residential energy efficient property.”.

3 (3) EFFECTIVE DATE.—The amendments made
 4 by this section shall apply to taxable years ending
 5 after December 31, 2005.

6 (b) EXTENSION OF CREDIT FOR ELECTRICITY PRO-
 7 DUCED FROM CERTAIN RENEWABLE RESOURCES.—

8 (1) EXTENSION.—Section 45(d) of the Internal
 9 Revenue Code of 1986 (relating to qualified facili-
 10 ties) is amended by striking “2006” each place it
 11 appears and inserting “2007”.

12 (2) COORDINATION WITH OTHER CREDITS.—
 13 Paragraph (9) of section 45(e) of the Internal Rev-
 14 enue Code of 1986 (relating to definitions and spe-
 15 cial rules) is amended to read as follows:

16 “(9) COORDINATION WITH OTHER CREDITS.—
 17 The term ‘qualified facility’ shall not include—

18 “(A) any property with respect to which a
 19 credit is allowed under section 25C, and

20 “(B) any facility the production from
 21 which is allowed as a credit under section 29,
 22 for the taxable year or any prior taxable year.”.

23 (3) EFFECTIVE DATE.—The amendments made
 24 by this section shall apply to electricity produced

1 and sold after the date of the enactment of this Act,
2 in taxable years ending after that date.

3 (4) GAO STUDY AND REPORT.—

4 (A) IN GENERAL.—The Comptroller Gen-
5 eral of the United States shall conduct a study
6 on the market viability of producing electricity
7 from resources with respect to which credit is
8 allowed under section 45 of the Internal Rev-
9 enue Code of 1986.

10 (B) OPEN-LOOP BIOMASS AND MUNICIPAL
11 SOLID WASTE.—In the case of open-loop bio-
12 mass and municipal solid waste resources, the
13 study under paragraph (1) shall take into ac-
14 count savings associated with not having to dis-
15 pose of those resources.

16 (C) ENVIRONMENTAL IMPACT.—In con-
17 ducting the study under paragraph (1), the
18 Comptroller General of the United States shall
19 estimate the dollar value of the environmental
20 impact of producing electricity from open-loop
21 biomass and municipal solid waste relative to
22 producing electricity from fossil fuels using the
23 latest generation of technology.

24 (D) REPORT.—Not later than June 30,
25 2006, the Comptroller General of the United

1 States shall submit to the Committee on Ways
2 and Means of the House of Representatives and
3 the Committee on Finance of the Senate a re-
4 port describing the results of the study under
5 paragraph (1).

6 (c) CREDIT FOR BUSINESS INSTALLATION OF QUALI-
7 FIED FUEL CELLS.—

8 (1) IN GENERAL.—Section 48 of the Internal
9 Revenue Code of 1986 (relating to energy credit) is
10 amended—

11 (A) in subsection (a)—

12 (i) in paragraph (1), by inserting “ex-
13 cept as provided in subsection (c)(2),” be-
14 fore “the energy”;

15 (ii) in paragraph (2), by striking sub-
16 paragraph (A) and inserting the following:

17 “(A) IN GENERAL.—The energy percent-
18 age is—

19 “(i) in the case of qualified fuel cell
20 property, 20 percent, and

21 “(ii) in the case of any other energy
22 property, 10 percent.”; and

23 (iii) in paragraph (3)(A)—

24 (I) in clause (i), by striking “or”
25 at the end;

1 (II) in clause (ii), by adding “or”
2 after the comma at the end; and

3 (III) by inserting at the end the
4 following:

5 “(iii) qualified fuel cell property;”;

6 and

7 (B) by adding at the end the following:

8 “(c) QUALIFIED FUEL CELL PROPERTY.—For pur-
9 poses of subsection (a)(3)(A)(iii)—

10 “(1) IN GENERAL.—The term ‘qualified fuel
11 cell property’ means a fuel cell power plant which
12 generates at least 0.5 kilowatt of electricity using an
13 electrochemical process.

14 “(2) LIMITATION.—The energy credit with re-
15 spect to any qualified fuel cell property shall not ex-
16 ceed an amount equal to \$500 for each 0.5 kilowatt
17 of capacity of such property.

18 “(3) FUEL CELL POWER PLANT.—The term
19 ‘fuel cell power plant’ means an integrated system,
20 comprised of a fuel cell stack assembly and associ-
21 ated balance of plant components, which converts a
22 fuel into electricity using electrochemical means.

23 “(4) TERMINATION.—The term ‘qualified fuel
24 cell property’ shall not include any property placed
25 in service after December 31, 2006.”.

1 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER
2 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a
3 credit was allowed to the taxpayer under subsection
4 (a) with respect to a dwelling unit in 1 or more prior
5 taxable years, the amount of the credit otherwise al-
6 lowable for the taxable year with respect to that
7 dwelling unit shall be reduced by the sum of the
8 credits allowed under subsection (a) to the taxpayer
9 with respect to the dwelling unit for all prior taxable
10 years.

11 “(c) QUALIFIED ENERGY EFFICIENCY IMPROVE-
12 MENTS.—For purposes of this section, the term ‘qualified
13 energy efficiency improvements’ means any energy effi-
14 cient building envelope component which meets the pre-
15 scriptive criteria for such component established by the
16 2000 International Energy Conservation Code, as such
17 Code (including supplements) is in effect on the date of
18 the enactment of this section (or, in the case of a metal
19 roof with appropriate pigmented coatings which meet the
20 Energy Star program requirements), if—

21 “(1) such component is installed in or on a
22 dwelling unit—

23 “(A) located in the United States,

1 “(B) owned and used by the taxpayer as
2 the taxpayer’s principal residence (within the
3 meaning of section 121), and

4 “(C) which has not been treated as a
5 qualified new energy efficient home for pur-
6 poses of any credit allowed under section 45J,

7 “(2) the original use of such component com-
8 mences with the taxpayer, and

9 “(3) such component reasonably can be ex-
10 pected to remain in use for at least 5 years.

11 If the aggregate cost of such components with respect to
12 any dwelling unit exceeds \$1,000, such components shall
13 be treated as qualified energy efficiency improvements
14 only if such components are also certified in accordance
15 with subsection (d) as meeting such prescriptive criteria.

16 “(d) CERTIFICATION.—The certification described in
17 subsection (c) shall be—

18 “(1) determined on the basis of the technical
19 specifications or applicable ratings (including prod-
20 uct labeling requirements) for the measurement of
21 energy efficiency (based upon energy use or building
22 envelope component performance) for the energy ef-
23 ficient building envelope component,

24 “(2) provided by a local building regulatory au-
25 thority, a utility, a manufactured home production

1 inspection primary inspection agency (IPIA), or an
2 accredited home energy rating system provider who
3 is accredited by or otherwise authorized to use ap-
4 proved energy performance measurement methods by
5 the Residential Energy Services Network
6 (RESNET), and

7 “(3) made in writing in a manner which speci-
8 fies in readily verifiable fashion the energy efficient
9 building envelope components installed and their re-
10 spective energy efficiency levels.

11 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-
12 poses of this section—

13 “(1) BUILDING ENVELOPE COMPONENT.—The
14 term ‘building envelope component’ means—

15 “(A) any insulation material or system
16 which is specifically and primarily designed to
17 reduce the heat loss or gain of a dwelling unit
18 when installed in or on such dwelling unit,

19 “(B) exterior windows (including sky-
20 lights),

21 “(C) exterior doors, and

22 “(D) any metal roof installed on a dwelling
23 unit, but only if such roof has appropriate pig-
24 mented coatings which are specifically and pri-

1 marily designed to reduce the heat gain of such
2 dwelling unit.

3 “(2) MANUFACTURED HOMES INCLUDED.—The
4 term ‘dwelling unit’ includes a manufactured home
5 which conforms to Federal Manufactured Home
6 Construction and Safety Standards (section 3280 of
7 title 24, Code of Federal Regulations).

8 “(3) APPLICATION OF RULES.—Rules similar to
9 the rules under paragraphs (3), (4), and (5) of sec-
10 tion 25C(d) shall apply.

11 “(f) BASIS ADJUSTMENT.—For purposes of this sub-
12 title, if a credit is allowed under this section for any ex-
13 penditure with respect to any property, the increase in the
14 basis of such property which would (but for this sub-
15 section) result from such expenditure shall be reduced by
16 the amount of the credit so allowed.

17 “(g) APPLICATION OF SECTION.—This section shall
18 apply to qualified energy efficiency improvements installed
19 after December 31, 2005, and before January 1, 2007.”.

20 (2) CONFORMING AMENDMENTS.—

21 (A) Subsection (a) of section 1016 of the
22 Internal Revenue Code of 1986 (as amended by
23 this Act) is amended—

24 (i) in paragraph (31), by striking
25 “and” at the end;

1 (ii) in paragraph (32), by striking the
 2 period at the end and inserting “, and”;
 3 and

4 (iii) by adding at the end the fol-
 5 lowing:

6 “(33) to the extent provided in section 25D(f),
 7 in the case of amounts with respect to which a credit
 8 has been allowed under section 25D.”.

9 (B) The table of sections for subpart A of
 10 part IV of subchapter A of chapter 1 of such
 11 Code (as amended by this Act) is amended by
 12 inserting after the item relating to section 25C
 13 the following:

“Sec. 25D. Energy efficiency improvements to existing homes.”.

14 (3) EFFECTIVE DATE.—The amendments made
 15 by this section shall apply to taxable years ending
 16 after December 31, 2005.

17 (e) CREDIT FOR CONSTRUCTION OF NEW ENERGY
 18 EFFICIENT HOMES.—

19 (1) IN GENERAL.—Subpart D of part IV of
 20 subchapter A of chapter 1 of the Internal Revenue
 21 Code of 1986 (relating to business related credits) is
 22 amended by adding at the end the following:

23 **“SEC. 45J. NEW ENERGY EFFICIENT HOME CREDIT.**

24 “(a) IN GENERAL.—For purposes of section 38, in
 25 the case of an eligible contractor with respect to a quali-

1 fied new energy efficient home, the credit determined
2 under this section for the taxable year with respect to such
3 home is an amount equal to the aggregate adjusted bases
4 of all energy efficient property installed in such home dur-
5 ing construction of such home.

6 “(b) LIMITATIONS.—

7 “(1) MAXIMUM CREDIT.—

8 “(A) IN GENERAL.—The credit allowed by
9 this section with respect to a dwelling unit shall
10 not exceed—

11 “(i) in the case of a dwelling unit de-
12 scribed in clause (i) or (iii) of subsection
13 (c)(3)(D), \$1,000, and

14 “(ii) in the case of a dwelling unit de-
15 scribed in subsection (c)(3)(D)(ii), \$2,000.

16 “(B) PRIOR CREDIT AMOUNTS ON SAME
17 DWELLING UNIT TAKEN INTO ACCOUNT.—If a
18 credit was allowed under subsection (a) with re-
19 spect to a dwelling unit in 1 or more prior tax-
20 able years, the amount of the credit otherwise
21 allowable for the taxable year with respect to
22 such dwelling unit shall be reduced by the sum
23 of the credits allowed under subsection (a) with
24 respect to the dwelling unit for all prior taxable
25 years.

1 “(2) COORDINATION WITH CERTAIN CREDITS.—

2 For purposes of this section—

3 “(A) the basis of any property referred to
4 in subsection (a) shall be reduced by that por-
5 tion of the basis of any property which is attrib-
6 utable to qualified rehabilitation expenditures
7 (as defined in section 47(c)(2)) or to the energy
8 percentage of energy property (as determined
9 under section 48(a)), and

10 “(B) expenditures taken into account
11 under section 47 or 48(a) shall not be taken
12 into account under this section.

13 “(c) DEFINITIONS.—For purposes of this section—

14 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-
15 ble contractor’ means—

16 “(A) the person who constructed the quali-
17 fied new energy efficient home, or

18 “(B) in the case of a qualified new energy
19 efficient home which is a manufactured home,
20 the manufactured home producer of such home.

21 If more than 1 person is described in subparagraph
22 (A) or (B) with respect to any qualified new energy
23 efficient home, such term means the person des-
24 ignated as such by the owner of such home.

1 “(2) ENERGY EFFICIENT PROPERTY.—The
2 term ‘energy efficient property’ means any energy
3 efficient building envelope component, and any en-
4 ergy efficient heating or cooling equipment or sys-
5 tem, which can, individually or in combination with
6 other components, result in a dwelling unit meeting
7 the requirements of this section.

8 “(3) QUALIFIED NEW ENERGY EFFICIENT
9 HOME.—The term ‘qualified new energy efficient
10 home’ means a dwelling unit—

11 “(A) located in the United States,

12 “(B) the construction of which is substan-
13 tially completed after December 31, 2005,

14 “(C) the original use of which, after such
15 construction, is reasonably expected to be as a
16 residence by the person who acquires such
17 dwelling unit from the eligible contractor,

18 “(D) which is—

19 “(i) certified to have a level of annual
20 heating and cooling energy consumption
21 which is at least 30 percent below the an-
22 nual level of heating and cooling energy
23 consumption of a comparable dwelling unit
24 constructed in accordance with the stand-
25 ards of chapter 4 of the 2000 International

1 Energy Conservation Code, as such Code
2 (including supplements) is in effect on the
3 date of the enactment of this section, and
4 to have building envelope component im-
5 provements account for at least $\frac{1}{3}$ of such
6 30 percent,

7 “(ii) certified to have a level of annual
8 heating and cooling energy consumption
9 which is at least 50 percent below such an-
10 nual level and to have building envelope
11 component improvements account for at
12 least $\frac{1}{5}$ of such 50 percent, or

13 “(iii) a manufactured home which—

14 “(I) conforms to Federal Manu-
15 factured Home Construction and
16 Safety Standards (section 3280 of
17 title 24, Code of Federal Regulations),
18 and

19 “(II) meets the applicable stand-
20 ards required by the Administrator of
21 the Environmental Protection Agency
22 under the Energy Star Labeled
23 Homes program.

1 “(4) CONSTRUCTION.—The term ‘construction’
2 includes substantial reconstruction and rehabilita-
3 tion.

4 “(5) ACQUIRE.—The term ‘acquire’ includes
5 purchase and, in the case of reconstruction and re-
6 habilitation, such term includes a binding written
7 contract for such reconstruction or rehabilitation.

8 “(6) BUILDING ENVELOPE COMPONENT.—The
9 term ‘building envelope component’ means—

10 “(A) any insulation material or system
11 which is specifically and primarily designed to
12 reduce the heat loss or gain of a dwelling unit
13 when installed in or on such dwelling unit,

14 “(B) exterior windows (including sky-
15 lights),

16 “(C) exterior doors, and

17 “(D) any metal roof installed on a dwelling
18 unit, but only if such roof has appropriate pig-
19 mented coatings which—

20 “(i) are specifically and primarily de-
21 signed to reduce the heat gain of such
22 dwelling unit, and

23 “(ii) meet the Energy Star program
24 requirements.

25 “(d) CERTIFICATION.—

1 “(1) METHOD OF CERTIFICATION.—A certifi-
2 cation described in subsection (c)(3)(D) shall be de-
3 termined in accordance with guidance prescribed by
4 the Secretary. Such guidance shall specify proce-
5 dures and methods for calculating energy and cost
6 savings.

7 “(2) FORM.—A certification described in sub-
8 section (c)(3)(D) shall be made in writing—

9 “(A) in a manner which specifies in readily
10 verifiable fashion the energy efficient building
11 envelope components and energy efficient heat-
12 ing or cooling equipment installed and their re-
13 spective rated energy efficiency performance,
14 and

15 “(B) in the case of a qualified new energy
16 efficient home which is a manufactured home,
17 accompanied by such documentation as required
18 by the Administrator of the Environmental Pro-
19 tection Agency under the Energy Star Labeled
20 Homes program.

21 “(e) BASIS ADJUSTMENT.—For purposes of this sub-
22 title, if a credit is determined under this section for any
23 expenditure with respect to any property, the increase in
24 the basis of such property which would (but for this sub-

1 section) result from such expenditure shall be reduced by
2 the amount of the credit so determined.

3 “(f) APPLICATION OF SECTION.—Subsection (a) shall
4 apply to qualified new energy efficient homes acquired
5 during the period beginning on January 1, 2006, and end-
6 ing on December 31, 2008.”.

7 (2) CREDIT MADE PART OF GENERAL BUSINESS
8 CREDIT.—Section 38(b) of the Internal Revenue
9 Code of 1986 (relating to current year business
10 credit) is amended—

11 (A) in paragraph (18), by striking “plus”
12 at the end;

13 (B) in paragraph (19), by striking the pe-
14 riod at the end and inserting “, plus”; and

15 (C) by adding at the end the following:

16 “(20) the new energy efficient home credit de-
17 termined under section 45J(a).”.

18 (3) BASIS ADJUSTMENT.—Section 1016(a) of
19 the Internal Revenue Code of 1986 (as amended by
20 this Act) is amended—

21 (A) in paragraph (32), by striking “and”
22 at the end;

23 (B) in paragraph (33), by striking the pe-
24 riod at the end and inserting “, and”; and

25 (C) by adding at the end the following:

1 “(34) to the extent provided in section 45J(e),
2 in the case of amounts with respect to which a credit
3 has been allowed under section 45J.”.

4 (4) DEDUCTION FOR CERTAIN UNUSED BUSI-
5 NESS CREDITS.—Section 196(c) of the Internal Rev-
6 enue Code of 1986 (defining qualified business cred-
7 its) is amended—

8 (A) in paragraph (11), by striking “and”
9 at the end;

10 (B) in paragraph (12), by striking the pe-
11 riod at the end and inserting “, and”; and

12 (C) by adding after paragraph (12) the fol-
13 lowing:

14 “(13) the new energy efficient home credit de-
15 termined under section 45J(a).”.

16 (5) CLERICAL AMENDMENT.—The table of sec-
17 tions for subpart D of part IV of subchapter A of
18 chapter 1 of the Internal Revenue Code of 1986 is
19 amended by adding at the end the following:

 “Sec. 45J. New energy efficient home credit.”.

20 (6) EFFECTIVE DATE.—The amendments made
21 by this section shall apply to taxable years ending
22 after December 31, 2005.

23 (f) CREDIT FOR ENERGY EFFICIENT APPLIANCES.—

24 (1) IN GENERAL.—Subpart D of part IV of
25 subchapter A of chapter 1 of the Internal Revenue

1 Code of 1986 (relating to business-related credits)
2 (as amended by this Act) is amended by adding at
3 the end the following:

4 **“SEC. 45K. ENERGY EFFICIENT APPLIANCE CREDIT.**

5 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
6 tion 38, the energy efficient appliance credit determined
7 under this section for the taxable year is an amount equal
8 to the sum of—

9 “(1) the tier I appliance amount, and

10 “(2) the tier II appliance amount,

11 with respect to qualified energy efficient appliances pro-
12 duced by the taxpayer during the calendar year ending
13 with or within the taxable year.

14 “(b) APPLIANCE AMOUNTS.—For purposes of sub-
15 section (a)—

16 “(1) TIER I APPLIANCE AMOUNT.—The tier I
17 appliance amount is equal to—

18 “(A) \$100, multiplied by

19 “(B) an amount (rounded to the nearest
20 whole number) equal to the applicable percent-
21 age of the eligible production.

22 “(2) TIER II APPLIANCE AMOUNT.—The tier II
23 appliance amount is equal to \$150, multiplied by an
24 amount equal to the eligible production reduced by
25 the amount determined under paragraph (1)(B).

1 “(3) APPLICABLE PERCENTAGE.—The applica-
2 ble percentage is the percentage determined by di-
3 viding the tier I appliances produced by the taxpayer
4 during the calendar year by the sum of the tier I
5 and tier II appliances so produced.

6 “(4) ELIGIBLE PRODUCTION.—The eligible pro-
7 duction of qualified energy efficient appliances by
8 the taxpayer for any calendar year is the excess of—

9 “(A) the number of such appliances which
10 are produced by the taxpayer during such cal-
11 endar year, over

12 “(B) 110 percent of the average annual
13 number of such appliances which were produced
14 by the taxpayer (or any predecessor) during the
15 preceding 3-calendar year period.

16 “(c) QUALIFIED ENERGY EFFICIENT APPLIANCE.—
17 For purposes of this section—

18 “(1) IN GENERAL.—The term ‘qualified energy
19 efficient appliance’ means any tier I appliance or tier
20 II appliance which is produced in the United States.

21 “(2) TIER I APPLIANCE.—The term ‘tier I ap-
22 pliance’ means—

23 “(A) a clothes washer which is produced
24 with at least a 1.50 MEF, and

1 “(B) a refrigerator which consumes at
2 least 15 percent (20 percent in the case of a re-
3 frigerator produced after 2006) less kilowatt
4 hours per year than the energy conservation
5 standards for refrigerators promulgated by the
6 Department of Energy and effective on July 1,
7 2001.

8 “(3) TIER II APPLIANCE.—The term ‘tier II ap-
9 pliance’ means a refrigerator produced before 2007
10 which consumes at least 20 percent less kilowatt
11 hours per year than the energy conservation stand-
12 ards described in paragraph (2)(B).

13 “(4) CLOTHES WASHER.—The term ‘clothes
14 washer’ means a residential clothes washer, includ-
15 ing a residential style coin operated washer.

16 “(5) REFRIGERATOR.—The term ‘refrigerator’
17 means an automatic defrost refrigerator-freezer
18 which has an internal volume of at least 16.5 cubic
19 feet.

20 “(6) MEF.—The term ‘MEF’ means Modified
21 Energy Factor (as determined by the Secretary of
22 Energy).

23 “(7) PRODUCED.—The term ‘produced’ in-
24 cludes manufactured.

25 “(d) LIMITATION ON MAXIMUM CREDIT.—

1 “(1) IN GENERAL.—The amount of credit al-
2 lowed under subsection (a) with respect to a tax-
3 payer for any taxable year shall not exceed
4 \$60,000,000, reduced by the amount of the credit
5 allowed under subsection (a) to the taxpayer (or any
6 predecessor) for any prior taxable year.

7 “(2) LIMITATION BASED ON GROSS RE-
8 CEIPTS.—The credit allowed under subsection (a)
9 with respect to a taxpayer for the taxable year shall
10 not exceed an amount equal to 2 percent of the aver-
11 age annual gross receipts of the taxpayer for the 3
12 taxable years preceding the taxable year for which
13 the credit is determined.

14 “(3) GROSS RECEIPTS.—For purposes of this
15 subsection, the rules of paragraphs (2) and (3) of
16 section 448(c) shall apply.

17 “(e) SPECIAL RULES.—For purposes of this sec-
18 tion—

19 “(1) IN GENERAL.—Rules similar to the rules
20 of subsections (c), (d), and (e) of section 52 shall
21 apply.

22 “(2) CONTROLLED GROUPS.—

23 “(A) IN GENERAL.—All persons treated as
24 a single employer under subsection (a) or (b) of

1 section 52 or subsection (m) or (o) of section
2 414 shall be treated as a single manufacturer.

3 “(B) INCLUSION OF FOREIGN CORPORA-
4 TIONS.—For purposes of subparagraph (A), in
5 applying subsections (a) and (b) of section 52
6 to this section, section 1563 shall be applied
7 without regard to subsection (b)(2)(C) thereof.

8 “(f) VERIFICATION.—The taxpayer shall submit such
9 information or certification as the Secretary, after con-
10 sultation with the Secretary of Energy, determines nec-
11 essary to claim the credit amount under subsection (a).

12 “(g) TERMINATION.—This section shall not apply
13 with respect to appliances produced after December 31,
14 2007.”.

15 (2) CREDIT MADE PART OF GENERAL BUSINESS
16 CREDIT.—Section 38(b) of the Internal Revenue
17 Code of 1986 (relating to current year business
18 credit) (as amended by this Act) is amended—

19 (A) in paragraph (19), by striking “plus”
20 at the end;

21 (B) in paragraph (20), by striking the pe-
22 riod at the end and inserting “, plus”; and

23 (C) by adding at the end the following:

24 “(21) the energy efficient appliance credit de-
25 termined under section 45K(a).”.

1 for the taxable year and all prior taxable years shall not
2 exceed an amount equal to the product of—

3 “(1) \$1.50, and

4 “(2) the square footage of the building.

5 “(c) DEFINITIONS.—For purposes of this section—

6 “(1) ENERGY EFFICIENT COMMERCIAL BUILD-
7 ING PROPERTY.—The term ‘energy efficient commer-
8 cial building property’ means property—

9 “(A) which is installed on or in a build-
10 ing—

11 “(i) which is located in the United
12 States, and

13 “(ii) which is the type of structure to
14 which the Standard 90.1–2001 is applica-
15 ble,

16 “(B) which is installed as part of—

17 “(i) the lighting systems,

18 “(ii) the heating, cooling, ventilation,
19 and hot water systems, or

20 “(iii) the building envelope, and

21 “(C) which is certified in accordance with
22 subsection (d)(4) as being installed as part of
23 a plan designed to reduce the total annual en-
24 ergy and power costs with respect to the light-
25 ing systems, heating, cooling, ventilation, and

1 hot water systems of the building by 50 percent
2 or more in comparison to a reference building
3 which meets the minimum requirements of
4 Standard 90.1–2001 using methods of calcula-
5 tion under subsection (d)(2).

6 “(2) STANDARD 90.1–2001.—The term ‘Stand-
7 ard 90.1–2001’ means Standard 90.1–2001 of the
8 American Society of Heating, Refrigerating, and Air
9 Conditioning Engineers and the Illuminating Engi-
10 neering Society of North America (as in effect on
11 April 2, 2003).

12 “(d) SPECIAL RULES.—

13 “(1) PARTIAL ALLOWANCE.—

14 “(A) IN GENERAL.—Except as provided in
15 subsection (f), in the case of a building placed
16 in service on or before the date of the enact-
17 ment of this section, if—

18 “(i) the requirement of subsection
19 (c)(1)(C) is not met, but

20 “(ii) there is a certification in accord-
21 ance with subsection (d)(4) that any sys-
22 tem referred to in subsection (c)(1)(B) sat-
23 isfies the energy-savings targets estab-
24 lished by the Secretary under subpara-
25 graph (B) with respect to such system,

1 then the requirement of subsection (c)(1)(C)
2 shall be treated as met with respect to such sys-
3 tem, and the deduction under subsection (a)
4 shall be allowed with respect to energy efficient
5 commercial building property installed as part
6 of such system and as part of a plan to meet
7 such targets, except that subsection (b) shall be
8 applied to such property by substituting ‘\$.50’
9 for ‘\$1.50’.

10 “(B) REGULATIONS.—The Secretary, after
11 consultation with the Secretary of Energy, shall
12 establish a target for each system described in
13 subsection (c)(1)(B) which, if such targets were
14 met for all such systems, the building would
15 meet the requirements of subsection (c)(1)(C).

16 “(2) METHODS OF CALCULATION.—The Sec-
17 retary, after consultation with the Secretary of En-
18 ergy, shall promulgate regulations which describe in
19 detail methods for calculating and verifying energy
20 and power cost for purposes of this section.

21 “(3) NOTICE TO OWNER.—Each certification
22 required under this section shall include an expla-
23 nation to the building owner regarding the energy
24 efficiency features of the building and its projected
25 annual energy costs.

1 “(4) CERTIFICATION.—

2 “(A) IN GENERAL.—The Secretary shall
3 prescribe the manner and method for the mak-
4 ing of certifications under this section.

5 “(B) PROCEDURES.—The Secretary shall
6 include as part of the certification process pro-
7 cedures for inspection and testing by qualified
8 individuals described in subparagraph (C) to
9 ensure compliance of buildings with energy-sav-
10 ings plans and targets. Such procedures shall
11 be—

12 “(i) comparable, given the difference
13 between commercial and residential build-
14 ings, to the requirements in the Mortgage
15 Industry National Accreditation Proce-
16 dures for Home Energy Rating Systems,
17 and

18 “(ii) fuel neutral such that the same
19 energy efficiency measures allow a building
20 to be eligible for the deduction under this
21 section regardless of whether such building
22 uses a gas or oil furnace or boiler, an elec-
23 tric heat pump, or other fuel source.

24 “(C) QUALIFIED INDIVIDUALS.—Individ-
25 uals qualified to determine compliance shall be

1 only those individuals who are recognized by an
2 organization certified by the Secretary for such
3 purposes.

4 “(e) BASIS REDUCTION.—For purposes of this sub-
5 title, if a deduction is allowed under this section with re-
6 spect to any energy efficient commercial building property,
7 the basis of such property shall be reduced by the amount
8 of the deduction so allowed.

9 “(f) INTERIM RULES FOR LIGHTING SYSTEMS.—
10 Until such time as the Secretary issues final regulations
11 under subsection (d)(1)(B) with respect to property which
12 is part of a lighting system—

13 “(1) IN GENERAL.—The lighting system target
14 under subsection (d)(1)(A)(ii) shall be a reduction in
15 lighting power density of 25 percent (50 percent in
16 the case of a warehouse) of the minimum require-
17 ments in Table 9.3.1.1 or Table 9.3.1.2 (not includ-
18 ing additional interior lighting power allowances) of
19 Standard 90.1–2001.

20 “(2) REDUCTION IN DEDUCTION IF REDUCTION
21 LESS THAN 40 PERCENT.—

22 “(A) IN GENERAL.—If, with respect to the
23 lighting system of any building other than a
24 warehouse, the reduction in lighting power den-
25 sity of the lighting system is not at least 40

1 percent, only the applicable percentage of the
2 amount of deduction otherwise allowable under
3 this section with respect to such property shall
4 be allowed.

5 “(B) APPLICABLE PERCENTAGE.—For
6 purposes of subparagraph (A), the applicable
7 percentage is the number of percentage points
8 (not greater than 100) equal to the sum of—

9 “(i) 50, and

10 “(ii) the amount which bears the same
11 ratio to 50 as the excess of the reduction
12 of lighting power density of the lighting
13 system over 25 percentage points bears to
14 15.

15 “(C) EXCEPTIONS.—This subsection shall
16 not apply to any system—

17 “(i) the controls and circuiting of
18 which do not comply fully with the manda-
19 tory and prescriptive requirements of
20 Standard 90.1–2001 and which do not in-
21 clude provision for bilevel switching in all
22 occupancies except hotel and motel guest
23 rooms, store rooms, restrooms, and public
24 lobbies, or

1 “(ii) which does not meet the min-
2 imum requirements for calculated lighting
3 levels as set forth in the Illuminating Engi-
4 neering Society of North America Lighting
5 Handbook, Performance and Application,
6 Ninth Edition, 2000.

7 “(g) REGULATIONS.—The Secretary shall promul-
8 gate such regulations as necessary—

9 “(1) to take into account new technologies re-
10 garding energy efficiency and renewable energy for
11 purposes of determining energy efficiency and sav-
12 ings under this section, and

13 “(2) to provide for a recapture of the deduction
14 allowed under this section if the plan described in
15 subsection (c)(1)(C) or (d)(1)(A) is not fully imple-
16 mented.

17 “(h) TERMINATION.—This section shall not apply
18 with respect to property placed in service after December
19 31, 2007.”.

20 (2) CONFORMING AMENDMENTS.—

21 (A) Section 1016(a) of the Internal Rev-
22 enue Code of 1986 (as amended by this Act) is
23 amended—

24 (i) in paragraph (33), by striking
25 “and” at the end;

1 (ii) in paragraph (34), by striking the
2 period at the end and inserting “, and”;
3 and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(35) to the extent provided in section
7 179B(e).”.

8 (B) Paragraphs (2)(C) and (3)(C) of sec-
9 tion 1245(a) of such Code are amended by in-
10 sserting “179C,” after “179B,” each place it ap-
11 pears.

12 (C) Section 1250(b)(3) of such Code is
13 amended by inserting before the period at the
14 end of the first sentence “or by section 179C”.

15 (D) Section 263(a)(1) of such Code is
16 amended—

17 (i) in subparagraph (H), by striking
18 “or” at the end;

19 (ii) in subparagraph (I), by striking
20 the period at the end and inserting “, or”;
21 and

22 (iii) by inserting after subparagraph
23 (I) the following:

24 “(J) expenditures for which a deduction is
25 allowed under section 179C.”.

1 (E) Section 312(k)(3)(B) of such Code (in-
 2 cluding the heading of that section) is amended
 3 by striking “179A, or 179B” each place it ap-
 4 pears and inserting “, 179A, 179B, or 179C”.

5 (3) CLERICAL AMENDMENT.—The table of sec-
 6 tions for part VI of subchapter B of chapter 1 of the
 7 Internal Revenue Code of 1986 is amended by in-
 8 serting after section 179B the following:

“Sec. 179C. Energy efficient commercial buildings deduction.”.

9 (4) EFFECTIVE DATE.—The amendments made
 10 by this section shall apply to property placed in serv-
 11 ice after the date of the enactment of this Act in
 12 taxable years ending after such date.

13 (h) THREE-YEAR APPLICABLE RECOVERY PERIOD
 14 FOR DEPRECIATION OF QUALIFIED ENERGY MANAGE-
 15 MENT DEVICES.—

16 (1) IN GENERAL.—Section 168 of the Internal
 17 Revenue Code of 1986 (relating to accelerated cost
 18 recovery system) is amended—

19 (A) in subsection (e)(3)(A)—

20 (i) in clause (ii), by striking “and” at
 21 the end;

22 (ii) in clause (iii), by striking the pe-
 23 riod at the end and inserting “, and”; and

24 (iii) by adding at the end the fol-
 25 lowing:

1 “(iv) any qualified energy manage-
2 ment device.”;

3 (B) in subsection (i), by inserting at the
4 end the following:

5 “(17) QUALIFIED ENERGY MANAGEMENT DE-
6 VICE.—

7 “(A) IN GENERAL.—The term ‘qualified
8 energy management device’ means any energy
9 management device which is placed in service
10 before January 1, 2008, by a taxpayer who is
11 a supplier of electric energy or a provider of
12 electric energy services.

13 “(B) ENERGY MANAGEMENT DEVICE.—
14 For purposes of subparagraph (A), the term
15 ‘energy management device’ means any meter
16 or metering device which is used by the tax-
17 payer—

18 “(i) to measure and record electricity
19 usage data on a time-differentiated basis
20 in at least 4 separate time segments per
21 day, and

22 “(ii) to provide such data on at least
23 a monthly basis to both consumers and the
24 taxpayer.”; and

1 (C) in the table under subsection
2 (g)(3)(B), by inserting after the item relating to
3 subparagraph (A)(iii) the following:

“(A)(iv) 20”.

4 (2) EFFECTIVE DATE.—The amendments made
5 by this section shall apply to property placed in serv-
6 ice after the date of the enactment of this Act, in
7 taxable years ending after such date.

8 **SEC. 5. CREDIT FOR INVESTMENT IN QUALIFYING GASIFI-**
9 **CATION COMBINED CYCLE TECHNOLOGIES.**

10 (a) ALLOWANCE OF QUALIFYING GASIFICATION
11 COMBINED CYCLE TECHNOLOGY FACILITY CREDIT.—
12 Section 46 (relating to the amount of credit) is amended
13 by striking “and” at the end of paragraph (1), by striking
14 the period at the end of paragraph (2) and inserting “,
15 and”, and by adding at the end the following new para-
16 graph:

17 “(3) the qualifying gasification combined cycle
18 technology facility credit.”.

19 (b) AMOUNT OF QUALIFYING GASIFICATION COM-
20 BINED CYCLE TECHNOLOGY FACILITY CREDIT.—Subpart
21 E of part IV of subchapter A of chapter 1 (relating to
22 rules for computing investment credit) is amended by in-
23 serting after section 48 the following new section:

1 **“SEC. 48A. QUALIFYING GASIFICATION COMBINED CYCLE**
2 **TECHNOLOGY FACILITY CREDIT.**

3 “(a) IN GENERAL.—For purposes of section 46, the
4 qualifying gasification combined cycle technology facility
5 credit for any taxable year is an amount equal to 15 per-
6 cent of the qualified investment in a qualifying gasification
7 combined cycle technology facility for such taxable year,
8 except that the credit shall be 20 percent if the facility
9 is a poly-generation facility.

10 “(b) QUALIFYING GASIFICATION COMBINED CYCLE
11 TECHNOLOGY FACILITY.—For purposes of subsection (a),
12 the term ‘qualifying gasification combined cycle technology
13 facility’ means an integrated gasification combined cycle
14 technology facility of the taxpayer—

15 “(1) in the case of a facility first placed in serv-
16 ice after September 30, 2005 and before September
17 30, 2013, the original use of which commences with
18 the taxpayer, or

19 “(2) in the case of the retrofitting or
20 repowering of a facility first placed in service before
21 October 1, 2005, the retrofitting or repowering of
22 which is completed by the taxpayer after September
23 30, 2005 and before September 30, 2013.

24 “(c) QUALIFIED INVESTMENT.—For purposes of sub-
25 section (a), the term ‘qualified investment’ means, with
26 respect to any taxable year, the basis of a qualifying gasifi-

1 cation combined cycle technology facility, including all
2 equipment and other tangible personal property incor-
3 porated into and used in a gasification combined cycle
4 technology facility or poly-generating facility, as appro-
5 priate, all transmission equipment employed specifically to
6 serve and located at the site of a gasification combined
7 cycle technology facility or poly-generating facility, as ap-
8 propriate, and all components added to capture, separate
9 on a long term basis, isolate, or remove greenhouse gases
10 that result from the generation of electricity from a gasifi-
11 cation combined cycle technology facility or poly-gener-
12 ating facility, placed in service by the taxpayer during
13 such taxable year (in the case of a facility described in
14 subsection (b)(2), only that portion of the basis of such
15 facility which is properly attributable to the retrofitting
16 or repowering of such facility.)

17 “(d) QUALIFIED PROGRESS EXPENDITURES.—

18 “(1) INCREASE IN QUALIFIED INVESTMENT.—

19 In the case of a taxpayer who has made an election
20 under paragraph (5), the amount of the qualified in-
21 vestment of such taxpayer for the taxable year (de-
22 termined under subsection (g) without regard to this
23 subsection) shall be increased by an amount equal to
24 the aggregate of each qualified progress expenditure

1 for the taxable year with respect to progress expend-
2 iture property.

3 “(2) PROGRESS EXPENDITURE PROPERTY DE-
4 FINED.—For purposes of this subsection, the term
5 ‘progress expenditure property’ means any property
6 being constructed by or for the taxpayer and which
7 it is reasonable to believe will qualify as a qualifying
8 gasification combined cycle technology facility which
9 is being constructed by or for the taxpayer when it
10 is placed in service.

11 “(3) QUALIFIED PROGRESS EXPENDITURES DE-
12 FINED.—For purposes of this subsection—

13 “(A) SELF-CONSTRUCTED PROPERTY.—In
14 the case of any self-constructed property, the
15 term ‘qualified progress expenditures’ means
16 the amount which, for purposes of this subpart,
17 is properly chargeable (during such taxable
18 year) to capital account with respect to such
19 property.

20 “(B) NONSELF-CONSTRUCTED PROP-
21 ERTY.—In the case of nonself-constructed prop-
22 erty, the term ‘qualified progress expenditures’
23 means the amount paid during the taxable year
24 to another person for the construction of such
25 property.

1 “(4) OTHER DEFINITIONS.—For purposes of
2 this subsection—

3 “(A) SELF-CONSTRUCTED PROPERTY.—

4 The term ‘self-constructed property’ means
5 property for which it is reasonable to believe
6 that more than half of the construction expendi-
7 tures will be made directly by the taxpayer.

8 “(B) NONSELF-CONSTRUCTED PROP-

9 ERTY.—The term ‘nonself-constructed property’
10 means property which is not self-constructed
11 property.

12 “(C) CONSTRUCTION, ETC.—The term

13 ‘construction’ includes reconstruction and erec-
14 tion, and the term ‘constructed’ includes recon-
15 structed and erected.

16 “(D) ONLY CONSTRUCTION OF GASIFI-

17 CATION COMBINED CYCLE TECHNOLOGY FACIL-
18 ITY TO BE TAKEN INTO ACCOUNT.—Construc-

19 tion shall be taken into account only if, for pur-
20 poses of this subpart, expenditures therefore
21 are properly chargeable to capital account with
22 respect to the property.

23 “(5) ELECTION.—An election under this sub-

24 section may be made at such time and in such man-
25 ner as the Secretary may by regulations prescribe.

1 Such an election shall apply to the taxable year for
2 which made and to all subsequent taxable years.

3 Such an election, once made, may not be revoked ex-
4 cept with the consent of the Secretary.

5 “(e) COORDINATION WITH OTHER CREDITS.—This
6 section shall not apply to any property with respect to
7 which the rehabilitation credit under section 47 or the en-
8 ergy credit under section 48 is allowed unless the taxpayer
9 elects to waive the application of such credit to such prop-
10 erty.

11 “(f) CARRYFORWARD OF UNUSED CREDIT.—A tax-
12 payer may elect to use all or a portion of the credit cal-
13 culated under subsection (a) in one or more succeeding
14 taxable years.

15 “(g) DEFINITIONS.—

16 “(1) For purposes of this section, the term
17 ‘gasification combined cycle technology facility’
18 means any combination of equipment, including all
19 related power generation equipment, (A) used at a
20 single location to convert coal or residuals into syn-
21 thesis gas that is then used as a fuel to generate
22 electricity; (B) that is carbon capture ready; (C) to
23 which depreciation (or amortization in lieu of depre-
24 ciation) is allowable; and (D) that can meet a nitro-

1 gen oxides emissions rate of 0.06 lb/mmBtu and a
2 sulfur dioxide emissions rate of 0.08 lb/mmBtu.

3 “(2) For purposes of this section, the term
4 ‘poly-generating facility’ means a gasification com-
5 bined cycle technology facility that also produces
6 commercially useful fuel and/or chemical products
7 and where no more than 50 percent or less than 20
8 percent of the energy content (BTUs/hr) of the gas-
9 ification process is used to produce such other fuels
10 or chemicals.

11 “(3) For purposes of this section, the term ‘car-
12 bon capture ready’ means a gasification combined
13 cycle technology facility that can have components
14 added that can capture, separate on a long term
15 basis, isolate, or remove greenhouse gases that result
16 from the generation of electricity.”.

17 (c) RECAPTURE AND BASIS ADJUSTMENT.—

18 (1) Section 50(a) of the Internal Revenue Code
19 of 1986 (relating to other special rules) is amended
20 by adding at the end the following new paragraph:

21 “(6) SPECIAL RULES RELATING TO QUALIFYING
22 GASIFICATION COMBINED CYCLE TECHNOLOGY FA-
23 CILITY.—For purposes of applying this subsection in
24 the case of any credit allowable by reason of section
25 48A, the following shall apply:

1 “(A) GENERAL RULE.—In lieu of the
2 amount of the increase in tax under paragraph
3 (1), the increase in tax shall be an amount
4 equal to the investment tax credit allowed under
5 section 38 for all prior taxable years with re-
6 spect to a qualifying gasification combined cycle
7 technology facility (as defined by section
8 48A(g)(1)) multiplied by a fraction whose nu-
9 merator is the number of years remaining to
10 fully depreciate under this title the qualifying
11 gasification combined cycle technology facility
12 disposed of, and whose denominator is the total
13 number of years over which such facility would
14 otherwise have been subject to depreciation. For
15 purposes of the preceding sentence, the year of
16 disposition of the qualifying gasification com-
17 bined cycle technology facility shall be treated
18 as a year of remaining depreciation.

19 “(B) PROPERTY CEASES TO QUALIFY FOR
20 PROGRESS EXPENDITURES.—Rules similar to
21 the rules of paragraph (2) shall apply in the
22 case of qualified progress expenditures for a
23 qualifying gasification combined cycle tech-
24 nology facility under section 48A, except that
25 the amount of the increase in tax under sub-

1 paragraph (A) of this paragraph shall be sub-
 2 stituted for the amount described in such para-
 3 graph (2).

4 “(C) APPLICATION OF PARAGRAPH.—This
 5 paragraph shall be applied separately with re-
 6 spect to the credit allowed under section 38 re-
 7 garding a qualifying gasification combined cycle
 8 technology facility.”.

9 (2) BASIS ADJUSTMENT.—Section 50(c)(3) of
 10 the Internal Revenue Code of 1986 is amended by
 11 adding “or any gasification combined cycle tech-
 12 nology credit” after “any energy credit”.

13 **SEC. 6. TREATMENT OF PERSONS NOT ABLE TO USE EN-**
 14 **TIRE CREDIT.**

15 (a) IN GENERAL.—Section 48A of the Internal Rev-
 16 enue Code of 1986, as added by this Act, is amended by
 17 adding at the end the following new subsection:

18 “(h) TREATMENT OF PERSONS NOT ABLE TO USE
 19 ENTIRE CREDIT.—

20 “(1) ALLOWANCE OF CREDITS.—

21 “(A) IN GENERAL.—Any credit allowable
 22 under this section with respect to a facility
 23 owned by a person described in subparagraph
 24 (B) may be transferred or used as provided in
 25 this subsection, and the determination as to

1 whether the credit is allowable shall be made
2 without regard to the tax-exempt status of the
3 person.

4 “(B) PERSONS DESCRIBED.—A person is
5 described in this subparagraph if the person
6 is—

7 “(i) an organization described in sec-
8 tion 501(c)(12)(C) and exempt from tax
9 under section 501(a),

10 “(ii) an organization described in sec-
11 tion 1381(a)(2)(C),

12 “(iii) a public utility (as defined in
13 section 136(c)(2)(B)),

14 “(iv) any State or political subdivision
15 thereof, the District of Columbia, or any
16 agency or instrumentality of any of the
17 foregoing,

18 “(v) any Indian tribal government
19 (within the meaning of section 7871) or
20 any agency or instrumentality thereof, or

21 “(vi) the Tennessee Valley Authority.

22 “(2) TRANSFER OF CREDIT.—

23 “(A) IN GENERAL.—A person described in
24 clause (i), (ii), (iii), (iv), or (v) of paragraph
25 (1)(B) may transfer any credit to which para-

1 graph (1)(A) applies through an assignment to
2 any other person not described in paragraph
3 (1)(B). Such transfer may be revoked only with
4 the consent of the Secretary.

5 “(B) REGULATIONS.—The Secretary shall
6 prescribe such regulations as necessary to in-
7 sure that any credit described in subparagraph
8 (A) is claimed once and not reassigned by such
9 other person.

10 “(C) TRANSFER PROCEEDS TREATED AS
11 ARISING FROM ESSENTIAL GOVERNMENT FUNC-
12 TION.—Any proceeds derived by a person de-
13 scribed in clause (iii), (iv), or (v) of paragraph
14 (1)(B) from the transfer of any credit under
15 subparagraph (A) shall be treated as arising
16 from the exercise of an essential government
17 function.

18 “(3) USE OF CREDIT AS AN OFFSET.—Notwith-
19 standing any other provision of law, in the case of
20 a person described in clause (i), (ii), or (v) of para-
21 graph (1)(B), any credit to which paragraph (1)(A)
22 applies may be applied by such person, to the extent
23 provided by the Secretary of Agriculture, as a pre-
24 payment of any loan, debt, or other obligation the
25 entity has incurred under subchapter I of chapter 31

1 of title 7 of the Rural Electrification Act of 1936 (7
2 U.S.C. 901 et seq.), as in effect on the date of the
3 enactment of this section.

4 “(4) USE BY TVA.—

5 “(A) IN GENERAL.—Notwithstanding any
6 other provision of law, in the case of a person
7 described in paragraph (1)(B)(vi), any credit to
8 which paragraph (1)(A) applies may be applied
9 as a credit against the payments required to be
10 made in any fiscal year under section 15d(e) of
11 the Tennessee Valley Authority Act of 1933 (16
12 U.S.C. 831n-4(e)) as an annual return on the
13 appropriations investment and an annual repay-
14 ment sum.

15 “(B) TREATMENT OF CREDITS.—The ag-
16 gregate amount of credits described in para-
17 graph (1)(A) with respect to such person shall
18 be treated in the same manner and to the same
19 extent as if such credits were a payment in cash
20 and shall be applied first against the annual re-
21 turn on the appropriations investment.

22 “(C) CREDIT CARRYOVER.—With respect
23 to any fiscal year, if the aggregate amount of
24 credits described in paragraph (1)(A) with re-
25 spect to such person exceeds the aggregate

1 amount of payment obligations described in
2 subparagraph (A), the excess amount shall re-
3 main available for application as credits against
4 the amounts of such payment obligations in
5 succeeding fiscal years in the same manner as
6 described in this paragraph.

7 “(5) CREDIT NOT INCOME.—Any transfer
8 under paragraph (2) or use under paragraph (3) of
9 any credit to which paragraph (1)(A) applies shall
10 not be treated as income for purposes of section
11 501(c)(12).

12 “(6) TREATMENT OF UNRELATED PERSONS.—
13 For purposes of this subsection, sales among and be-
14 tween persons described in clauses (i), (ii), (iii), and
15 (v) of paragraph (1)(A) shall be treated as sales be-
16 tween unrelated parties.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to production after the date of the
19 enactment of this Act, in taxable years ending after such
20 date.

21 **SEC. 7. ELIGIBILITY FOR TAX CREDITS.**

22 (a) IN GENERAL.—The Secretary of the Treasury, in
23 consultation with the Secretary of Energy, may certify
24 that an eligible entity, as defined in section 113 of the
25 Natural Gas Price Reduction Act of 2005, qualifies for—

1 (1) an investment tax credit; or

2 (2) a production tax credit.

3 (b) REQUIREMENT.—A taxpayer shall not be entitled
4 to a tax credit described in subsection (a) without certifi-
5 cation by the Secretary of the Treasury.

○